

### REMARKS

Applicants respectfully request reconsideration of the present application based on the foregoing amendments and the following remarks. Applicants herein amend claims 1-3, 10, 12, 14, 15, 18-22, 29, 31, 33, 34, 37-41, 43 and 45, cancel claims 9, 17, 28, 36, 42 and 44 and add claims 46-51. Claims 1-8, 10-16, 18-27, 29-35, 37-41, 43 and 45-51 will be pending in the application upon entry of the Amendment.

#### ***Claim Rejections Under 35 U.S.C. § 102(e)***

Claims 1-6, 17-25, 36-41, 44 and 45 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,167,517 to Gilchrist ("Gilchrist"). Claims 17, 36 and 44 have been canceled, rendering the rejection of those claims moot. For reasons set forth more fully below, this rejection is respectfully traversed as to all remaining pending claims.

#### **Amended Independent Claims 1, 20 and 39 Patentably Define Over Gilchrist**

Independent claim 1 has been amended to more clearly require, *inter alia*:

determining whether the request requires authentication;  
**enabling the request to be fulfilled without authentication if the  
determination indicates that authentication is not required;**  
obtaining an indicia of physical identification from the user if the  
determination **instead** indicates that authentication is required;

Independent claims 20 and 39 have been similarly amended.

Gilchrist's system does not disclose or suggest these claim limitations, including the required step of **enabling the request to be fulfilled without authentication if the  
determination indicates that authentication is not required.** Gilchrist merely teaches that "specific **levels**" of authentication for different users or servers could be configured (col. 4, lines 16-18), and more particularly that these **levels** control "how closely the template must match the biometric sample in order to authorize certain classes of users or for certain classes of services" (col. 6, lines 17-21).

In other words, Gilchrist teaches **always obtaining a biometric sample** from all users before granting access to services. Gilchrist merely suggests that different thresholds of

accuracy in comparing the obtained sample with a stored template may be employed for different classes of users or services.

This explicitly claimed feature of the invention is one example of how the invention allows preemptive reduction of fraudulent or suspicious activity while not impeding reliable activity. This object is not addressed or suggested by Gilchrist, and this feature is neither trivial, a simple matter of design choice nor obvious.

For at least this reason, amended independent claims 1, 20 and 39 patentably define over Gilchrist and the § 102 rejections of these claims, along with claims 2-6, 18-19, 21-25, 37-38, 40-41 and 45 that depend therefrom, should be withdrawn.

Amended Dependent Claims 2, 21 and 40 Further Patentably Define Over Gilchrist

Claims 2, 21 and 40 depend from claims 1, 20 and 39 and are patentable for at least the reasons claims 1, 20 and 39 are patentable. Claim 2 has been amended to more clearly require that the step of determining whether authentication is required includes:

- retrieving a stored profile containing the user's historical authentication patterns with respect to a plurality of network elements;

- identifying certain of the plurality of network elements in the stored profile as being associated with the requested on-line resource;

- determining a score for the user based on the user's historical authentication patterns with the certain network elements;
- and

- determining whether authentication is required for this request to use the on-line resource based on the score.

Claims 21 and 40 have been similarly amended. This subject matter is described in the specification at, for example, pages 35 to 37 and enables evaluation of access control across a broad variety of network services for the same individual user or account.

This subject matter is not taught or suggested by Gilchrist. For at least this additional reason, claims 2, 21 and 40 patentably define over Gilchrist and the § 102 rejections of these claims should be withdrawn.

Amended Dependent Claims 3-6, 22-25, and 41 Further Patentably Define Over Gilchrist

Claims 3-6, 22-25 and 41 depend from claims 1, 20 and 39 and are patentable for at least the reasons claims 1, 20 and 39 are patentable. Claim 3 has been amended to more clearly require:

storing business rules for a plurality of companies having on-line resources;  
identifying a company associated with the requested on-line resource from among the plurality of companies; and  
retrieving the stored business rules for the identified company, wherein the step of determining whether the request requires authentication includes determining whether stored business rules for the identified company associated with the requested on-line resource indicates that authentication for the user is required.

Claims 22 and 41 have been similarly amended. Gilchrist does not disclose storing resource access rules for a plurality of companies, much less using these rules to determine whether authentication is required.

This claimed subject matter is described in the specification at, for example, page 29 to 35, and enables a centralized authentication service that can be used by a plurality of companies, which can thus more reliably track and compensate for fraudulent behavior by certain users but in a flexible fashion. This object and solution is not considered by Gilchrist.

Moreover, Gilchrist does not disclose the company lists explicitly required by dependent claims 4-6 and 23-25. These claims allow a company to establish different access procedures for specific users. Gilchrist merely suggests maintaining a list of users who are able to obtain access. If the user is not on the list, access is denied, otherwise the user is always authenticated before obtaining access. For example, Gilchrist does not disclose or suggest allowing a company to list which users "never" require authentication as explicitly required by claims 5 and 24.

For at least these additional reasons, claims 3, 22 and 41, as well as claims 4-6 and 23-25 that depend from claims 3 and 22, patentably define over Gilchrist and the § 102 rejection of these claims should be withdrawn. Claim 19 has been amended to depend from claim 3, and claim 38 has been amended to depend from claim 22, and the rejections thereof should be similarly withdrawn.

***Claim Rejections Under 35 U.S.C. § 103(a) In View of Gilchrist and Baulier***

Claims 7, 8, 26, 27, 42 and 43 stand rejected under 35 U.S.C. § 103(a) as being obvious over Gilchrist in view of U.S. Patent No. 6,163,604 to Baulier ("Baulier"). Claim 42 has been canceled, rendering the rejection of that claim moot. For reasons set forth more fully below, this rejection is respectfully traversed as to all remaining claims.

Claims 7 and 8 depend from independent claim 1, claims 26 and 27 depend from independent claim 20, and claim 43 depends from independent claim 39. These independent claims patentably define over Gilchrist at least because, for example, Gilchrist's system does not include the required step of enabling the request to be fulfilled without authentication if the determination indicates that authentication is not required. Baulier's system does not disclose requiring authentication at all, much less making a determination of when authentication is required. Accordingly, the alleged combination of Gilchrist and Baulier would not have suggested all limitations of the claimed invention.

For at least this reason, claims 7, 8, 26, 27 and 43 patentably define over the cited prior art and the rejections thereof should be withdrawn.

***Claim Rejections Under 35 U.S.C. § 103(a) In View of Gilchrist and Baulier***

Claims 9-16 and 28-35 stand rejected under 35 U.S.C. § 103(a) as being obvious over Gilchrist in view of U.S. Patent No. 5,708,422 to Blonder ("Blonder"). Claims 9 and 28 have been canceled, rendering the rejections of those claims moot. For reasons set forth more fully below, this rejection is respectfully traversed as to all remaining claims.

Claims 10-16 depend from independent claim 1, and claims 29-35 depend from independent claim 20. These independent claims patentably define over Gilchrist at least because, for example, Gilchrist's system does not include the required step of enabling the request to be fulfilled without authentication if the determination indicates that authentication is not required. Blonder's system does not disclose requiring authentication at all, much less making a determination of when authentication is required. Blonder merely suggests at col. 5, lines 40-42 that when "other criteria" in a stored profile exists for a particular card number, these are checked. Otherwise "validation of the card number may be performed in a conventional manner." In other words, Blonder does not teach any means of authentication at

all. Accordingly, the alleged combination of Gilchrist and Blonder would not have suggested all limitations of the claimed invention.


For at least this reason, pending claims 10-16 and 29-35 patentably define over the cited prior art and the rejections thereof should be withdrawn.

**Conclusion**

All objections and rejections having been addressed, and in view of the foregoing, the claims are believed to be in form for allowance, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, s/he is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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